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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,267	07/31/2003	Kenneth H. Kohlndorfer	816 DIV2	3787
23518	7590	10/02/2006	EXAMINER	
KEY SAFETY SYSTEMS, INC.			NGUYEN, JOHN QUOC	
PATENT DEPARTMENT			ART UNIT	
7000 NINETEEN MILE ROAD			PAPER NUMBER	
STERLING HEIGHTS, MI 48314			3654	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/631,267

Applicant(s)

KOHLNDORFER ET AL.

Examiner

John Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29, 30 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29, 30, 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Applicant's affirmation of the election without traverse of claims 29, 30, 36 in the reply filed on 6/18/04 has been acknowledged.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebner et al (US 5788176) in view of DE 2729280.

Ebner et al discloses an apparatus having substantially all the claimed features including a frame 10, force limiting means/torsion bar 30, and spool 12. Elements such as 32 and 70 are made from plastic/resin. It is old and well known to use plastic/resin material instead of metal when the plastic/resin meets strength requirements to reduce weight and manufacturing costs, and eliminate corrosion. DE '280 discloses a seatbelt device having plastic frame members 2, 3, 8, 9. In view of the prior art as a whole and of the elements of Ebner et al already made from plastic, it would have been obvious to a person having ordinary skill in the art to further make the frame of Ebner et al from plastic/resin if the plastic/resin can meet the strength requirements ("first level pull") to obtain the above advantages, i.e. to reduce weight and manufacturing costs, and eliminate corrosion. Since the FMVSS 209 is a Federal safety standard related to seatbelts, the devices of Ebner et al and DE '280 are deemed to inherently meet the standard. It should be noted that the first level of force in Ebner et al is less than the force level that the frame can withstand; therefore, it would have been obvious to a

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person having ordinary skill in the art to make the plastic/resin frame such that it can also withstand a force higher than the first level of force.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebner et al (US 5788176) in view of DE 2729280 as applied to claims 29 and 30 above, and further in view of DE 3244204.

DE '204 discloses a retractor frame 1 having a single lower mounting member 6. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Ebner et al modified as above with a single lower mounting member as taught by DE '204 to conveniently mount the retractor to a mounting surface via a single mounting member such as to reduce the number of parts and therefore cost.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 29, 30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6419178.

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Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that claims 29 and 30 are encompassed in claims 1-16 of the above patent. Since the FMVSS 209 is a Federal safety standard related to seatbelts, the device claimed in the above patent are deemed to inherently meet the standard.

Claim 29, 30, 36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6722601 in view of Ebner et al (US 5788176). Claims 1-9 of the above patent disclose substantially all the claimed features. Ebner et al is cited to show the old and well known torsion bar. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of the above claims 1-9 with a torsion bar as taught by Ebner et al to absorb energy as is old and well known in the art. Since the FMVSS 209 is a Federal safety standard related to seatbelts, the devices claimed in the above patent and in Ebner et al are deemed to inherently meet the standard.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

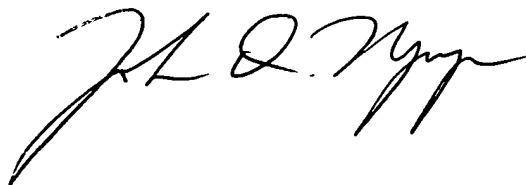
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (571) 272-6952. The examiner can normally be reached on Monday-Friday, from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Q. Nguyen', with a stylized, flowing script.

John Q. Nguyen  
Primary Examiner  
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